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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,605	01/09/2002	Henry Nicponski	82251DMW	7022

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EXAMINER

MARIAM, DANIEL G

ART UNIT

PAPER NUMBER

2625

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/042,605

Applicant(s)

NICPONSKI, HENRY

Examiner

DANIEL G. MARIAM

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/21/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 21-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,6-18,21,22 and 25-31 is/are rejected.
- 7) ☒ Claim(s) 2,4,5,23 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 01312002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION:

Election/Restrictions

1. Applicant's election without traverse of group I (claims 1-18 and 21-31) in the reply filed on March 21, 2005 and the cancellation of non-elected claims 19-20 is acknowledged.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7-16, 18, and 26-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 26 (requirement "e") recites the limitation "... to produce enhanced value imaging services and products for image groups that fall into an appropriate semantic theme." It is unclear what the enhanced value imaging *service and products* (emphasis added) suppose to include specifically. A similar limitation also occurs in claim 7. Please clarify.

Since claims 8-16 and 27-31 depend on claims 7 and 26 respectively, they are also rejected under 35 U.S.C. 112, second paragraph, for the same reason set forth above for claims 7 and 26.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3, 6, 17, 21-22 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Mojsilovic, et al. (Pre-grant Publication US 2003/0123737).

With regard to claim 21, Mojsilovic, et al. discloses a system for organizing and categorizing images by semantic content (See for example, paragraph 0030, lines 3-5), comprising: (a) an image feature extractor that extracts one or more image feature measurements, i.e., perceptual features of the image, from each of the digitized images in an image group (See for example, paragraph 0014, line 22-24); (b) an image semantic classifier, i.e., semantic category, that uses the one or more image feature measurements to produce an individual image confidence measure, that an individual image belongs to one or more semantic classifications, i.e., perceptually based metric, wherein the metric computes the similarity between the features used to describe the semantic category, whereby said image semantic classifier produces the individual image confidence measures, i.e., highest value of the similarity measure, for a plurality of the digitized images in an image group, (c) an image group semantic classifier that uses the individual image confidence measures for the images in the image group to produce an image group confidence measure that the image group belongs to one or more semantic classifications; and (d) a decision module that uses the image group confidence measure to decide whether the image group belongs to a selected one or to none of the semantic classifications, whereby the selected semantic classification constitutes the general semantic theme of the group of images (See paragraph 0014, lines 24-26; paragraph 0015, lines 5-9;

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paragraph 0045, lines 11-13; paragraph 0046, lines 1-13; and the abstract lines 13-25). Thus, given the broadest reasonable interpretation, Mojsilovic, et al. does meet requirements (a-d) of claim 1.

With regard to claim 22, the system as claimed in claim 21 wherein the image feature extractor extracts at least one feature *selected from* the group consisting of a face, a standing person, a gender or age characteristic of a person, a color histogram, a texture measure, and image spectral information (See for example, paragraphs 0066-0070).

With regard to claim 25, the system as claimed in claim 21 wherein the decision module processes a plurality of image group confidence measures relating to an image group and makes a mutually exclusive decision that the image group belongs to a specific one or to none of the semantic classifications (See for example, paragraph 0045, lines 12-13).

Claim 1 is rejected the same as claim 21 except claim 1 is a method claim. Thus, argument analogous to that presented above for claim 21 is applicable to claim 1.

Claim 3 is rejected the same as claim 22 except claim 3 is a method claim. Thus, argument analogous to that presented above for claim 22 is applicable to claim 3.

Claim 6 is rejected the same as claim 25 except claim 6 is a method claim. Thus, argument analogous to that presented above for claim 25 is applicable to claim 6.

With regard to claim 17, a computer storage medium having instructions stored therein for causing a computer to perform the method of claim 1 (See for example, item 403, in Fig. 1).

Allowable Subject Matter

6. Claims 2, 4-5 and 23-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The closest prior art to Mojsilovic, et al do not teach or fairly suggest identifying the specific image group by relating the images to a roll of film from which the digitized images were obtained, to a time or date of image capture, to a time or date the images were provided into step (a) of claim 1, or to the occurrence of a roll change in a film from which the digitized images were obtained; and the use of a support vector machine in the production of the individual image confidence and the image group confidence. It is for these reasons and in combination with all of the limitations of the base claim, that claims 2, 4-5 and 23-24 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent Numbers: 5852823, 5819288, and 5899999; Patent Application Publication US 2002/0122596; and Publications to: Vailaya, et al. "Content based hierarchical classification of vacation images"; Vailaya, et al. "Image classification for content based indexing"; and Wang, et al. "SIMPLICITY: semantics-sensitive integrated matching for picture libraries".

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL G. MARIAM whose telephone number is 571-272-7394. The examiner can normally be reached on M-F (7:00-4:30) FIRST FRIDAY OFF.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BHAVESH M. MEHTA can be reached on 571-272-7453. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


DANIEL MIRIAM
PRIMARY EXAMINER

June 20, 2005